

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

vs.

HAROLD TURNER

No. 09 CR 650
Judge Donald E. Walter
Sitting by designation

DEFENDANT'S SUPPLEMENTAL JURY INSTRUCTIONS

The Defendant, HAROLD TURNER, by and through his attorneys MICHAEL OROZCO and NISHAY SANAN, respectfully submit the attached supplemental jury instructions.

First Amendment

A statement which is mere political hyperbole or an expression of opinion or discussion does not constitute a threat. If you find that the Defendant's statements were no more than an indignant or extreme method of stating political opposition to the written opinion of the three judges, then you are justified in finding that no threat was in fact made and you may find the Defendant not guilty. *United States v. Kelner*, 534 F.2d 1020, 1025 (2nd Cir. 1976).

Incitement and Imminent Lawlessness

The advocacy and teaching of the forcible overthrow of the government as an abstract principle is immune from prosecution. The Defendant is not charged with inciting others to act in a lawless manner. The Government has alleged during the course of this trial that the Defendant's words were meant to cause others to act in such a manner as to spark imminent lawlessness. To convict the Defendant you must find that:

- 1) The speech was designed to elicit imminent lawlessness; and
- 2) The speech was uttered in a context where imminent lawlessness is likely

If you find that the Defendant's statements do not satisfy the elements above then you must find him not guilty. *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

Imminent is defined as likely to occur at any moment, impending.